

deemed proper to state in this connection that some of the officers and citizens of Coconino County, Ariz., in January, 1897, removed 16 Navajo Indian families, who were tending their flocks in a grazing district south or southwest of the Little Colorado River, from that district to the north side of the river. A history of this matter is given in the annual report of this office for the year 1897, pages 63 to 65. Considering all the facts in the case, this office is led to the conclusion that if the lands proposed to be added to the Navajo Reservation were of any value for grazing purposes the whites thereon would be unwilling for the same to be segregated from the public domain and added to the reservation, and that they would resist such action upon the part of the Government.

It will be observed from the inspector's report that it will require an appropriation of \$48,000 to purchase the improvements of settlers within the territory sought to be added to the reservation. These improvements, if purchased, would be useless to the Government. They could not be utilized in any manner, and the Indians, doubtless, would not occupy the buildings or look properly after the orchards and gardens that have been planted. The expenditure, therefore, of this sum would practically be a clear loss to the Government.

In the consideration of this whole matter it has occurred to me that it would be a wiser and better plan to ask Congress to appropriate the sum named, and as much more as may be necessary, for continuing the work of irrigation already begun upon the present reservation and the development of a sufficient water supply thereon. Furthermore, were the territory mentioned added to the reservation, it would be necessary to develop a water supply thereon before the same would become available and useful to the Indians. As above stated the inspector recommends that Inspector Graves be sent there to investigate and make a report upon the question of irrigation and a water supply.

Furthermore, the question of the right, title, and claim of these Indians to this tract of land would arise in case an Executive order is promulgated adding it to the reservation. The Supreme Court held, in the case of *In re Wilson* (140 U. S. Reports p. 575), that the White Mountain Indian Reservation (within the Territory of Arizona), created in the first instance by order of the President in 1871, was a legally constituted Indian reservation, such being the case although no such reservation existed when the Territory of Arizona was organized on February 24, 1863 (12 Stats., 664); that whatever doubts there might have been, if any, as to the validity of such Executive order are put at rest by the act of Congress approved February 8, 1887 (28 Stats., 388), the first clause of which is:

"That in all cases where any tribe or band of Indians has been or shall hereafter be located upon any reservation created for their use, either by treaty stipulations or by virtue of an act of Congress or Executive order setting apart the same for their use, the President of the United States be, and he hereby is, authorized, whenever in his opinion any reservation, or any part thereof, of such Indians is advantageous for agricultural and grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or resurveyed if necessary, and to allot the lands in said reservation in severalty to any Indian located thereon, in quantities as follows."

Such is the doctrine as laid down by the Supreme Court of the United States, and Congress has in numerous cases recognized the titles of Indians to lands set aside for them by Executive orders by ratifying the agreement made with them and by appropriating money to pay for the lands ceded. This was done in several instances subsequently to the approval of the act of February 8, 1887. The action of that body, however, has not been uniform in such cases. By a clause contained in the Indian appropriation act for the fiscal year ending June 30, 1891 (26 Stats., 355), Congress recognized the title of the Colville Indians to an Executive order reservation and authorized the President to appoint a commission to negotiate with them for such portion thereof "as said Indians might be willing to dispose of, that the same may be opened to white settlement." That body had previously recognized the title in the act of May 8, 1890 (26 Stats., p. 102), granting a right of way to the Spokane Falls and Northern Railway Company, wherein it was provided that before any lands should be taken by said company the consent of the Indians should be first obtained in a manner satisfactory to the President of the United States. That body, however, repudiated its action recognizing the title of the Colville Indians when the agreement made under the provisions of the act of June 30, 1891, above cited, was presented for ratification.

The Navajo Indians already possess a vast tract of country—really an empire within itself. It is true the land is not very valuable, owing to the scarcity of water and the lack of grass; but if the Government should now attempt to take it from them without their consent serious trouble would doubtless arise. They are a powerful tribe, having a population, as indicated, of 20,500. They believe that the reserva-